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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/671,926

09/24/2003

Andrew S. Poulsen

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04/21/2004

AGILENT TECHNOLOGIES, INC.

Legal Department, DL429

Intellectual Property Administration

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EXAMINER

WALLING, MEAGAN S

ART UNIT

PAPER NUMBER

2863

DATE MAILED: 04/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/671,926

Applicant(s)

POULSEN, ANDREW S.

Examiner

Meagan S Walling

Art Unit

2863

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3,4,15,20,22,23,34,39 and 40 is/are rejected.
- 7) ☒ Claim(s) 2,5-14,16-19,21,24-33 and 35-38 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim-Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 39 and 40 are rejected under 35 U.S.C. 102(b) as being anticipated by Muramatsu (JP 08122423A).

Regarding claim 39, Muramatsu teaches a measurement module configured for measuring parametric values (see paragraph 1); a control module attached to the measurement module (see paragraph 10); a clock attached to the control module, wherein the control module is configured for obtaining a clock time from the clock (see paragraph 10); a calibration memory attached to the control module, wherein the control module is configured for obtaining instrument calibration information stored in the calibration memory, wherein the control module is configured for storing instrument calibration information in the calibration memory, and wherein the instrument calibration information comprises information identifying the time instrument calibration is due (see paragraph 10); and an indicator attached to the control module, wherein the control module is configured to actuate the indicator so as to inform an operator when the clock time is past the time the instrument calibration is due (see paragraph 11).

Regarding claim 40, Muramatsu teaches that the control module is configured for storing instrument calibration history in the calibration history memory, and wherein the instrument

calibration history comprises information identifying a time the instrument was calibrated (see paragraph 12).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 4, 15, 20, 22, 23, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muramatsu (JP 08122423A) in view of Iida (US 6,280,105).

Regarding claims 1 and 20, Muramatsu teaches determining calibration status, wherein the determination is made automatically by the instrument examining calibration history stored by the instrument (see paragraph 10); when instrument calibration is past due: notifying a user that the calibration is past due, wherein the notification is initiated automatically by the instrument (see paragraph 9); otherwise: removing the instrument from measurement service (see paragraph 11); calibrating the instrument (see paragraph 11); updating the calibration history stored by the instrument to reflect a new time that a new calibration is due (see paragraph 12); and returning the instrument to service (see paragraph 11); otherwise: maintaining the instrument in measurement service (see paragraph 12).

Regarding claims 3 and 22, Muramatsu teaches that the determination of instrument calibration status is initiated at a preselected clock time (see paragraph 12).

Regarding claims 15 and 34, Muramatsu teaches that at preselected times prior to calibration due time for the instrument, notifying the user of calibration due time, wherein the notification is made automatically by the instrument (see claim 4).

Muramatsu does not teach the user making the measurement when the user decides to make the measurement with the out-of-calibration instrument (current claims 1 and 20).

Regarding claims 1 and 20, Iida teaches that the user can choose whether or not to calibrate directly after a calibration request has been made (column 8, lines 39-42).

Regarding claims 4 and 23, Iida teaches the determination of instrument calibration status is initiated when the user initiates use of the instrument (column 6, lines 25-28).

It would have been obvious to one skilled in the art at the time of the invention to combine the teachings of Muramatsu with the teachings of Iida to allow the user to make a measurement without calibrating. The motivation for making this combination would be to allow the user the choice of not calibrating right away if the user wants to make a measurement but does not have the time to calibrate.

#### ***Allowable Subject Matter***

Claims 2, 5-14, 16-19, 21, 24-33, and 35-38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:

The primary reason for the indication of allowability of claims 2 and 21 is the inclusion of the limitation that before the step of notifying a user that the calibration is past due, activating

Art Unit: 2863

a restriction inhibiting the instrument from making a measurement, wherein the restriction is automatically activated by the instrument; before the stop of making the measurement, manually overriding the restriction; and after the step of updating the calibration history stored by the instrument, removing the restriction inhibiting the instrument from making a measurement. It is this limitation in the claimed combination that has not been found, taught, or suggested that makes these claims allowable over the prior art.

The primary reason for the indication of allowability of claims 5 and 24 is the inclusion of the limitation that after the step of notifying a user that the calibration is past due, obtaining the measurement uncertainty; and informing the user of the measurement uncertainty. It is this limitation in the claimed combination that has not been found, taught, or suggested that makes these claims allowable over the prior art.

The primary reason for the indication of allowability of claims 6 and 25 is the inclusion of the limitation that the step of determining instrument calibration status comprises determining the calibration status for only those paths belonging to a sub-set of all measurement paths of the instrument. It is this limitation in the claimed combination that has not been found, taught, or suggested that makes these claims allowable over the prior art.

The primary reason for the indication of allowability of claims 9 and 28 is the inclusion of the limitation of determining the calibration status for only those types of measurements belonging to a sub-set of all measurement types that the instrument can make. It is this limitation in the claimed combination that has not been found, taught, or suggested that makes these claims allowable over the prior art.

The primary reason for the indication of allowability of claims 12 and 31 is the inclusion of the limitation of determining the calibration status for only frequencies belonging to a sub-set of all frequencies or frequency ranges for which the instrument is capable of making a measurement. It is this limitation in the claimed combination that has not been found, taught, or suggested that makes these claims allowable over the prior art.

The primary reason for the indication of allowability of claims 16 and 35 is the inclusion of the limitation of obtaining measurement history data for the instrument, wherein the measurement history is stored by the instrument. It is this limitation in the claimed combination that has not been found, taught, or suggested that makes these claims allowable over the prior art.

### ***Conclusion***


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meagan S Walling whose telephone number is (571) 272-2283. The examiner can normally be reached on Monday through Friday 8:30 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached on (571) 272-2269. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2863

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

msw



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